

AMENDED IN ASSEMBLY APRIL 14, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2560

Introduced by Assembly Member Montanez

February 20, 2004

An act to amend Section 2836.1 of the Business and Professions Code, relating to nursing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2560, as amended, Montanez. Nurse practitioners: furnishing drugs or devices.

Existing law, the Nursing Practice Act, *the violation of which is a crime*, licenses and regulates nurse practitioners ~~and~~. *The act* authorizes a nurse practitioner to furnish drugs or devices, *in specified health facilities and* under specified circumstances, when furnished or ordered in accordance with standardized procedures or protocols developed by the nurse practitioner and his or her supervision physician and surgeon. ~~A violation of the act is a crime.~~

This bill would instead authorize a nurse practitioner to furnish drugs or devices under the standardized procedures or protocols when the drugs and devices furnished or ordered are consistent with the practitioner's educational preparation or for which clinical competency has been established and maintained. *The bill would also expand the types of health facilities to which these provisions are applicable.*

~~Existing law requires the standardized procedure or protocol to specify which drugs or devices may be furnished or ordered.~~

~~This bill would instead require the standardized procedure or protocol to specify the categories or classifications of drugs or devices that may be furnished or ordered.~~

Because the bill would change the definition of a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2836.1 of the Business and Professions
- 2 Code is amended to read:
- 3 2836.1. Neither this chapter nor any other provision of law
- 4 shall be construed to prohibit a nurse practitioner from furnishing
- 5 or ordering drugs or devices when all of the following apply:
- 6 (a) The drugs or devices are furnished or ordered by a nurse
- 7 practitioner in accordance with standardized procedures or
- 8 protocols developed by the nurse practitioner and the supervising
- 9 physician and surgeon when the drugs or devices furnished or
- 10 ordered are consistent with the practitioner's educational
- 11 preparation or for which clinical competency has been established
- 12 and maintained.
- 13 (b) The nurse practitioner is functioning pursuant to
- 14 standardized procedure, as defined by Section 2725, or protocol.
- 15 The standardized procedure or protocol shall be developed and
- 16 approved by the supervising physician and surgeon, the nurse
- 17 practitioner, and the facility administrator or the designee.
- 18 (c) (1) The standardized procedure or protocol covering the
- 19 furnishing of drugs or devices shall specify which nurse
- 20 practitioners may furnish or order drugs or devices, ~~the categories~~
- 21 ~~or classifications of~~ *which* drugs or devices ~~that~~ may be furnished
- 22 or ordered, under what circumstances, the extent of physician and
- 23 surgeon supervision, the method of periodic review of the nurse



1 practitioner's competence, including peer review, and review of
2 the provisions of the standardized procedure.

3 (2) In addition to the requirements in paragraph (1), for
4 Schedule II controlled substance protocols, the provision for
5 furnishing Schedule II controlled substances shall address the
6 diagnosis of the illness, injury, or condition for which the Schedule
7 II controlled substance is to be furnished.

8 (d) The furnishing or ordering of drugs or devices by a nurse
9 practitioner occurs under physician and surgeon supervision.
10 Physician and surgeon supervision shall not be construed to
11 require the physical presence of the physician, but does include (1)
12 collaboration on the development of the standardized procedure,
13 (2) approval of the standardized procedure, and (3) availability by
14 telephonic contact at the time of patient examination by the nurse
15 practitioner.

16 (e) For purposes of this section, no physician and surgeon shall
17 supervise more than four nurse practitioners at one time.

18 (f) (1) Drugs or devices furnished or ordered by a nurse
19 practitioner may include Schedule II through Schedule V
20 controlled substances under the California Uniform Controlled
21 Substances Act (Division 10 (commencing with Section 11000) of
22 the Health and Safety Code) and shall be further limited to those
23 drugs agreed upon by the nurse practitioner and physician and
24 surgeon and specified in the standardized procedure.

25 (2) When Schedule II or III controlled substances, as defined
26 in Sections 11055 and 11056, respectively, of the Health and
27 Safety Code, are furnished or ordered by a nurse practitioner, the
28 controlled substances shall be furnished or ordered in accordance
29 with a patient-specific protocol approved by the treating or
30 supervising physician. A copy of the section of the nurse
31 practitioner's standardized procedure relating to controlled
32 substances shall be provided, upon request, to any licensed
33 pharmacist who dispenses drugs or devices, when there is
34 uncertainty about the nurse practitioner furnishing the order.

35 (g) (1) The board has certified in accordance with Section
36 2836.3 that the nurse practitioner has satisfactorily completed (1)
37 at least six month's physician and surgeon-supervised experience
38 in the furnishing or ordering of drugs or devices and (2) a course
39 in pharmacology covering the drugs or devices to be furnished or
40 ordered under this section.

1 (2) Nurse practitioners who are certified by the board and hold
2 an active furnishing number, who are authorized through
3 standardized procedures or protocols to furnish Schedule II
4 controlled substances, and who are registered with the United
5 States Drug Enforcement Administration, shall complete, as part
6 of their continuing education requirements, a course including
7 Schedule II controlled substances based on the standards
8 developed by the board. The board shall establish the requirements
9 for satisfactory completion of this subdivision.

10 (h) Use of the term “furnishing” in this section, in health
11 facilities defined in ~~subdivisions (b), (c), (d), (e), and (i)~~ of Section
12 1250 of the Health and Safety Code, shall include (1) the ordering
13 of a drug or device in accordance with the standardized procedure
14 and (2) transmitting an order of a supervising physician and
15 surgeon.

16 (i) “Drug order” or “order” for purposes of this section means
17 an order for medication which is dispensed to or for an ultimate
18 user, issued by a nurse practitioner as an individual practitioner,
19 within the meaning of Section 1306.02 of Title 21 of the Code of
20 Federal Regulations. Notwithstanding any other provision of law,
21 (1) a drug order issued pursuant to this section shall be treated in
22 the same manner as a prescription of the supervising physician; (2)
23 all references to “prescription” in this code and the Health and
24 Safety Code shall include drug orders issued by nurse
25 practitioners; and (3) the signature of a nurse practitioner on a drug
26 order issued in accordance with this section shall be deemed to be
27 the signature of a prescriber for purposes of this code and the
28 Health and Safety Code.

29 SEC. 2. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.

